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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 DOMINIQUE M. KEIMBAYE;

9 Plaintiff,

10 v.

11 GROUP HEALTH COOPERATIVES/
12 KAISER PERMANENTE, ET AL.,

13 Defendants.

Case No. C17-963MJP

ORDER GRANTING MOTION TO
DISMISS

14 This matter comes before the Court on Defendants' Motion to Dismiss pursuant to
15 Federal Rules of Civil Procedure 12(b)(1), (5) and (6). Dkt. #14. Plaintiff Dominique Keimbaye
16 opposes the Motion. Dkt. #22.

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18 The Court has reviewed Defendants' Motion and the remainder of the record and finds
19 that dismissal without prejudice is warranted. The Court need not discuss the underlying facts
20 of this case to reach this conclusion. Defendants are correct that Plaintiff's Complaint does not
21 establish subject matter jurisdiction. There are no allegations that could be construed to support
22 diversity jurisdiction pursuant to 28 U.S.C. § 1332(a). There is also no claim establishing federal
23 question jurisdiction under 28 U.S.C. § 1331, for example a claim under Title VII of the Civil
24 Rights Act. Plaintiff's nebulous citation to "federal and State labor laws" in the Complaint is
25 insufficient, *see* Dkt. #1 at 2, and Defendants are correct that a claim for an unfair labor practice
26 under federal labor law would require Plaintiff to show that he brought such a claim to the NLRB
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1 prior to filing this suit, *see* Dkt. #14 at 6-7. Although Plaintiff argues in Response that he is
2 bringing a Title VII claim, Dkt. #22 at 2, this claim is not contained in his Complaint as required.
3 Further, Defendants argue on Reply that “[a]llowing Plaintiff to amend his Complaint to plead a
4 cause of action under Title VII will not cure the subject matter defect since it is clear that Plaintiff
5 has not first exhausted his administrative remedies [through the EEOC].” Dkt. #23 at 3. The
6 Court agrees with Defendants. This case can be dismissed in its entirety based solely on a lack
7 of subject matter jurisdiction.
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9 Alternatively, the Court dismisses for failure to properly serve. Defendants argue that
10 service was improper because Plaintiff personally served Defendants and because Plaintiff
11 apparently served a person who was not authorized to accept service on behalf of any of the
12 named Defendants. Dkt. #14 at 7-8. Plaintiff appears to tacitly admit these failures of service.
13 Dkt. #22 at 5. The Court agrees that Plaintiff’s method of service violated Rule 4(c)(2) and
14 otherwise did not rise to the requirements of Rules 4(e) for individuals and 4(h) for corporations.
15 *See* Dkt. #14 at 8–9.
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17 Accordingly, the Court hereby finds and ORDERS:
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- 19 1) Defendants’ Motion to Dismiss (Dkt. #14) is GRANTED for the reasons stated above.
20 2) All of Plaintiff’s claims are DISMISSED without prejudice.
21 3) This case is CLOSED.
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23 DATED this _5th_ day of September , 2017.
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26 Marsha J. Pechman
27 United States District Judge
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